

Remarks

I. Status of claims

Claims 1-21, 23-30, and 32-40 are pending.

It is noted that claim 32 depends from claim 30 in accordance with the Amendment filed September 23, 2005. The Amendment filed February 28, 2006, unintentionally omitted the dependency of claim 32.

II. Interview summary record

In a telephone conference on May 30, 2006, Mr. Garcia informed the Examiner that he planned to submit in the present application a Declaration under 37 CFR § 1.132 that would confirm the statements that were made in Applicant's response that was filed on February 28, 2006. Although the Examiner did not commit to entering such a Declaration, the Examiner indicated that he may enter the Declaration despite the finality of the last Office action if the Declaration did not raise any new issues that would require any additional consideration or search on the part of the Examiner.

III. The sole issue remaining in the present application

A. Introduction

The Examiner has not rejected any of the pending claims on the basis of prior art.

The Examiner has rejected the pending claims only under 35 U.S.C. § 112, first paragraph, "as failing to comply with the written description requirement." The Examiner's position is that the application did not reasonably convey to one skilled in the art that the inventor, at the time the application was filed, had possession of the following subject matter recited in independent claim 1:

wherein the access module additionally is configured to create a replacement reference identifying a data item identified by a messaging/collaboration server reference into the messaging/collaboration data, pass the replacement reference to the voice device without passing the data item, and store an association between the replacement reference and the messaging/collaboration server reference.

For the same reasons, the Examiner's position is that the inventor did not have possession of the corresponding subject matter recited in independent claim 11, in which the term "voice device" is replaced by --wireless device--.

B. Applicant's previously filed response to the Examiner's position

In the Amendment filed February 28, 2006, Applicant explained that:

- ⇒ On page 18, lines 7-8, the specification teaches that the "... access module 120 stores on the server the following sessionID_Inbox.xml file, which contains references to the actual content of each of the corresponding sub-messages."
- ⇒ One skilled in the art at the time the application was filed readily would have understood that the 128-bit numbers following the brackets ">" in the ID="["number"]" statements in the sessionID_Inbox.xml file disclosed on page 18 of the present application correspond to the claimed "messaging/collaboration server reference" because these numbers are the GUID numbers that are used to identify messaging/collaboration items (i.e., message items) in the "Inbox" folder, which is identified by the 128-bit GUID number on lines 11-14 of page 18.
- ⇒ One skilled in the art at the time the application was filed readily would have recognized that the numbers "1", "2", "3", "4", and "5", which are preceded by the "ID=" statements in the sessionID_Inbox.xml file, correspond to the claimed "replacement reference" because these statements tell an XML parser to replace the respective ID type values (i.e., "1", "2", "3", "4", and "5") with the associated GUID numbers (i.e., the numbers corresponding to the claimed "messaging/collaboration server reference").
- ⇒ Thus, from the statement on page 18, lines 7-8, and the sessionID_Inbox.xml file, one skilled in the art at the time the application was filed would have understood that the access module 120 is configured to create a replacement reference (e.g., "1" on page 18, line 16) that identifies a data item (e.g., a message item in the "Inbox" folder), which is identified by a messaging/collaboration server reference (e.g., "00000005BEB8C6319E4D311AB5700902740B9F207004341EF5F8B4AD311AB4B00902740B9F200000192D00400004341EF5F8B4AD311AB4B00902740B9F200000192D0510000" on page 18, lines 16-18) into the messaging/collaboration data, as recited in claims 1 and 11.
- ⇒ On page 16, lines 16-19, the specification teaches that:

... access module 120 manages sessions by creating XML structures for holding long variable names and references, and by passing only simple references (e.g., an HTTP cookie) to the destination device.
- ⇒ In the sessionID_Inbox.xml file, the "ID=" statements correspond to the claimed "replacement reference" and the GUID numbers correspond to the claimed

“messaging/collaboration server reference.” Therefore, when applied to the sessionID_Inbox.xml file, one skilled in the art at the time the application was filed would have understood from the disclosure on page 16, lines 16-19, that the access module 120 passes replacement references (i.e., “1”, “2”, “3”, “4”, and “5”) to the destination device without passing the actual referenced data (i.e., the message items identified by the associated GUIDs), as recited in claims 1 and 11.

- ⇒ The sessionID_Inbox.xml file contains associations between the “ID=” statements, which correspond to the claimed “replacement reference”, and the GUID numbers, which correspond to the claimed “messaging/collaboration server reference. Therefore, from the disclosure that the access module 120 stores the sessionID_Inbox.xml file (see page 18, lines 7-8), one skilled in the art at the time the application was filed would have understood that the access module 120 is configured to store an association between the replacement reference and the messaging/collaboration server reference, as recited in claims 1 and 11.

C. The Examiner’s response to Applicant’s previously filed response

In response to the arguments that were presented in Applicant’s previously filed response, the Examiner has acknowledged the following:

- ⇒ (Page 3, lines 5-9, of the final Office action): “The passage cited by Applicant does state that access module120 manages sessions by creating XML structures for holding long variable names and references, and by passing only simple references (e.g. an HTTP cookie) to the destination device. The passage also discloses that access module 120 stores on the server a sessionID_Inbox.xml file, which contains references to the actual content of each of the corresponding sub-messages.”
- ⇒ (Page 7, lines 10-12, of the final Office action): “Admittedly, there is some disclosure that a simple reference may be replaced on the server with the actual referenced data, and that references to the actual content of messages are stored on the server.”

The Examiner, however, has maintained his position that the “claimed limitations go beyond what one having ordinary skill in the art could reasonably read from the cited passage” for the following reasons:

- ⇒ (Page 3, lines 13-15 of the final Office action): “Applicant's originally-filed Specification does not set forth elements of ‘a replacement reference’, ‘a messaging/collaboration server reference’, or ‘messaging/collaboration data’.”
- ⇒ (Page 3, lines 1-2 of the final Office action): “The scope of the terms recited in the claims cannot easily be translated into the elements disclosed by the Specification.”

- ⇒ (Page 5, line 16, through page 6, line 5, of the final Office action): “...it is maintained that one having ordinary skill in the art would not necessarily know the facts about Microsoft Exchange Server, which Applicant is contending makes the newly claimed invention inherent. Specifically, one skilled in the art of interactive voice response (IVR) systems could very well look at Applicant's Specification, Pages 16 to 18, and merely see dense and complex computer code that is not readily understood. It is contended that one may well need to be an expert in a computer language relating to the coding of Microsoft Exchange Server to deduce what Applicant is asserting as inherent from Pages 16 to 18 of the Specification. The ‘ID=’ statements are not defined by Applicant's Specification as being ‘replacement references’ for a global pseudo-random number (Global Unique IDentifier), nor is a global pseudo-random number (GUID) identified as a ‘messaging/collaboration server reference.’”
- ⇒ (Page 6, lines 5-7, of the final Office action): “To identify the claimed elements from lines of computer code would go beyond what is necessarily known by those skilled in the art.”

Thus, the Examiner's basis for maintaining his position is that one skilled in the art at the time the invention was made would not have recognized the inherent facts explained in Applicant's previously filed response regarding the sessionID_Inbox.xml file that is disclosed on page 18, lines 10-34, of the present application. On the basis of this belief, the Examiner has, in effect, not given this portion of Applicant's disclosure any descriptive weight.

D. Applicant's rebuttal to the Examiner's response in the final Office action

As noted by the Examiner, the specification need not contain a literal transcription of the claim language defining the invention in order to satisfy the written description requirement. Instead, the application need only reasonably convey the claimed subject matter to a person of ordinary skill in the pertinent art. In this inquiry, the pertinent art is art that is “in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned” (MPEP § 2141.01(a)). In this regard, the present application includes the following exemplary statements that help to define the field of Applicant's endeavor:

- ⇒ (Page 2, lines 28-30): “The invention provides a scheme by which remote users may access the full functionality of a local messaging/collaboration server (e.g., a Microsoft® Exchanger [sic] server) over wireless and voice networks.”
- ⇒ (Page 3, lines 14-16): “As used herein the term “messaging/collaboration services” refers to messaging services (e.g., e-mail, voice mail and fax services) or

collaboration services (e.g., data conferencing, instant messaging and chat services), or both.”

- ⇒ (Page 16, lines 12-15): “In one embodiment, access server 34 leverages the functionality of a Microsoft® Exchange server to present complete Microsoft® Outlook® messaging and collaboration functionality on any networked device, including voice and wireless devices.”
- ⇒ (Page 21, lines 7-15): “Universal communication module 20 may format the service deliverable into an appropriate media format based upon an extensible style language (XSL) style specification, which specifies a way in which style may be separated from content in extensible markup language (XML) documents. For example, universal communication module 20 may pass the service deliverable received from service module 10 to the destination device in any of the following markup language formats: VoxML for voice-based destination devices; HTML for Internet-based destination devices; and WML for wireless-based destination devices.”
- ⇒ (Claim 10 as originally filed): “The system of claim 1, wherein the access module is configured to expose messaging/collaboration data stored on a Microsoft® Exchange® server computer.”

The foregoing exemplary statements quoted from the present application, make it clear that one of ordinary skill in the pertinent art, at the very least, would have had ordinary skill in the field of programming software applications using Microsoft® Exchange and XML. For at least this reason, the Examiner’s reasoning that “one skilled in the art of interactive voice response (IVR) systems could very well look at Applicant’s Specification, Pages 16 to 18, and merely see dense and complex computer code that is not readily understood” is not persuasive because the *pertinent art* is not limited to interactive voice response systems. Indeed, none of the pending or originally filed claims recites anything directly related to the field of interactive voice response systems; at most, these claims are only tangentially related to the field of interactive voice response systems. In addition, the art that has been cited by the Examiner in rejecting the claims presented in the application has not been limited to the field of interactive voice response systems. Instead, the Examiner has cited art in the field of programming software applications using Microsoft® Exchange and XML.

Thus, the pertinent art at the very least must encompass the field of programming software applications using Microsoft® Exchange and XML. Consequently, the relevant inquiry is whether the application reasonably conveys the claimed subject matter to a person

of ordinary skill in the art of programming software applications using Microsoft® Exchange and XML.

In order to lay to rest the sole remaining issue in the present application, Applicant submits herewith a Declaration under 37 CFR § 1.132 (referred to herein as the “Rule 132 Declaration”) by Stanley Foster. The Rule 132 Declaration rebuts the Examiner’s contention that one skilled in the art at the time the invention was made would have recognized the inherent facts that were explained in Applicant’s previously filed response to the Examiner’s position regarding the disclosure on pages 16-18 of the present application. Among other things, the Rule 132 Declaration establishes that:

- ⇒ (Paragraph 7): “On page 18, lines 10-34, the present patent application discloses a sessionID_Inbox.xml file that contains “ID=” statements, which associate respective simple references (i.e., the ID type values “1”, “2”, “3”, “4”, and “5”) with GUID (Globally Unique IDentifier) numbers that reference respective messages in an “Inbox” folder that is maintained by a Microsoft Exchange server on which the access module 120 is executing.”
- ⇒ (Paragraph 11): “The number following the folder label “Inbox” and contained within quotes in sessionID_Inbox.xml file on page 18, lines 11-14, of the present patent application is the GUID for the “Inbox” folder that is maintained by the Microsoft Exchange server on which the access module 120 is executing.”
- ⇒ (Paragraph 12): “Similarly, the 128-bit numbers following the brackets “>” in the ID=“[number]” statements in the sessionID_Inbox.xml file on page 18, lines 10-34 of the present patent application are the GUID reference numbers that are used by the Microsoft Exchange server to identify messages in the “Inbox” folder.”
- ⇒ (Paragraph 14): “The “ID=” statements in the sessionID_Inbox.xml file tell an XML parser running on the Microsoft Exchange server to replace the respective simple references (i.e., the ID type values “1”, “2”, “3”, “4”, and “5”) with the associated GUID reference numbers. Each of the “ID=” statements is an indirection to map from a respective ID type value provided by a client to an associated GUID reference number that is maintained in some session context by the server in the sessionID_Inbox.xml file, where “ID” is a tag that is used to pass the simple reference that replaces the associated GUID reference number.”
- ⇒ (Paragraph 15): “When applied to the exemplary sessionID_Inbox.xml file on page 18, lines 10-34 of the present patent application, the disclosure on page 16, lines 16-19, of the present patent application means that the access module 120 creates the sessionID_Inbox.xml file and passes the simple references (i.e., the ID type values “1”, “2”, “3”, “4”, and “5”) to the destination device without passing the actual referenced data (i.e., the message items in the “Inbox” folder that are identified by the GUID reference numbers associated with ID type values).”

These statements of the Rule 132 Declaration establish that the disclosed sessionID_Inbox.xml file stores an association between a simple reference (i.e., an ID Type value) and a messaging/collaboration server reference into messaging/collaboration data (i.e., a GUID number that uniquely identifies a respective message item in an “Inbox” folder that is maintained by a Microsoft Exchange server on which the access module 120 is executing). In accordance with the statement in paragraph 15 of the Rule 132 Declaration, the disclosed access module 120 creates the sessionID_Inbox.xml file and passes the simple references to the destination device without passing the message items referenced by the GUID references associated with the simple references in the sessionID_Inbox.xml file.

Thus, the Rule 132 Declaration confirms that the application did reasonably convey to one skilled in the art that the inventor, at the time the application was filed, had possession of the following subject matter recited in independent claim 1(11):

wherein the access module additionally is configured to create a replacement reference identifying a data item identified by a messaging/collaboration server reference into the messaging/collaboration data, pass the replacement reference to the voice (wireless) device without passing the data item, and store an association between the replacement reference and the messaging/collaboration server reference.

where the “messaging/collaboration server reference” corresponds to a given one of the GUID reference numbers in the disclosed sessionID_Inbox.xml file, the “data item” corresponds to a message item that is in the “Inbox” folder and is identified by the given GUID reference number, and the “replacement reference” corresponds to the simple reference (e.g., one of the ID type value “1”, “2”, “3”, “4”, and “5”) that is associated with the given GUID reference number in the sessionID_Inbox.xml file.

E. Reasons why the Declaration under 37 CFR § 1.132 should be entered notwithstanding the finality of the last Office action

37 CFR § 1.116(e) provides that:

An affidavit or other evidence submitted after a final rejection or other final action (§ 1.113) in an application or in an ex parte reexamination filed under § 1.510, or an action closing prosecution (§ 1.949) in an inter partes reexamination filed under § 1.913 but before or on the same date of filing an appeal (§ 41.31 or § 41.61 of this title), may be admitted upon a

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showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented.

The Rule 132 Declaration is necessary to rebut the Examiner's contention that one skilled in the art at the time the invention was made would not have recognized the inherent facts that were explained in Applicant's previously filed response regarding the sessionID_Inbox.xml file.

The reason the Rule 132 Declaration was not earlier presented was because it could not have been reasonably anticipated that the Examiner would take the unreasonable position that the pertinent field for determining the level of ordinary skill in the art was limited narrowly to interactive voice response systems and, on this basis, conclude that the disclosure on pages 16 to 18 of the present application was merely "dense and complex computer code that is not readily understood" and, therefore, not entitled to any descriptive weight.

The Rule 132 Declaration does not raise any new issues that would require any additional consideration or search on the part of the Examiner. Instead, the Rule 132 Declaration merely confirms the statements made in the Amendment filed February 28, 2006, statements which already have been considered by the Examiner.

The Rule 132 Declaration advances the prosecution of the present application by laying to rest the only issue remaining in the present application.

For these reasons, the Rule 132 Declaration should be entered and acted upon by the Examiner notwithstanding the finality of the last Office action.

IV. Conclusion

For the reasons explained above, the Examiner's rejection of claims 1-21, 23-30, and 32-40 under 35 U.S.C. § 112, first paragraph, should be withdrawn.

Since the Examiner has not rejected any of the claims on the basis of any prior art, the pending claims now are in condition for allowance and should be allowed.

Charge any excess fees or apply any credits to Deposit Account No. 08-2025.

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Respectfully submitted,

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